

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Nutramax Laboratories, Inc. and)	Case No. 0:17-cv-2081-DCC
Nutramax Laboratories Consumer Care,)	
Inc.;)	
)	
Plaintiffs,)	
)	
v.)	ORDER
)	
Vitamin Boat Corp and Paul Buchanan,)	
)	
Defendants,)	
_____)	

This matter is before the Court on Plaintiffs' Complaint alleging Defendants engaged in false advertising and unfair competition in violation of the Lanham Act, 15 U.S.C. § 1051, et seq.; the South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10, et seq.; and South Carolina common law. ECF No. 1. Plaintiffs requested entry of default with respect to both Defendants on September 12, 2017, and the Clerk of Court entered default as to both Defendants on the same day. ECF Nos. 10, 12, 14. On October 24, 2018, Plaintiffs filed a Motion for Default Judgment. ECF No. 15. Defendants have not appeared in this action.

In accordance with 28 U.S.C. §636(b) and Standing Order *In Re: Magistrate Judge Case Equalization Plan*, No. 3:12-mc-00386-MBS (D.S.C. Nov. 7, 2012), Plaintiffs' Motion for Default Judgment was referred to United States Magistrate Shiva V. Hodges for a Report and Recommendation ("Report"). On August 9, 2018, the Magistrate Judge

issued a Report recommending that the Motion be granted, a permanent injunction be entered, and that Plaintiffs be awarded a judgment of \$13,661.43. ECF No. 27. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. No party has filed such objections, and the time to do so has passed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See U.S.C. 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. Therefore, it is ordered that Plaintiff’s Motion for Default Judgment [15] is **GRANTED**. Plaintiffs are awarded \$1 in actual damages; \$12,807.78 in attorneys’ fees; and \$852.65 in costs, for a total judgment amount of \$13,661.43 under the Lanham Act

and the South Carolina Unfair Trade Practices Act. Plaintiffs' request for a permanent injunction is **GRANTED**. Defendants and their agents, divisions, subsidiaries, officers, employees, attorneys, and all those persons in active concert or participation with them are enjoined and restrained from making false and misleading statements of fact (a) in regard to COSAMIN®DS and (b) in the advertising of Movexa products and any other products marketed distributed or sold by Defendants. This Court further orders removal of all of Defendants' false advertisements and statements from ManRelated.com, Google.com, and any other website on which they remain.

IT IS SO ORDERED.

s/Donald C. Coggins, Jr.
United States District Judge

August 31, 2018
Spartanburg, South Carolina